

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ACALANES UNION HIGH SCHOOL
DISTRICT.

OAH CASE NO. 2012090068

ORDER TO SHOW CAUSE WHY
CASE SHOULD NOT BE DISMISSED,
AND ORDER CONTINUING
PREHEARING CONFERENCE

On October 22, 2010, Administrative Law Judge (ALJ) Adeniyi A. Ayoade, Office of Administrative Hearings (OAH), attempted to convene a telephonic prehearing conference (PHC). Neither party was reachable despite several attempts to reach the parties. The ALJ called the telephone numbers of record for the representative for District and the Parent at least twice, but neither party was available for the PHC. Messages were left for each party to call OAH regarding the PHC.

Based on the record in this case, it appears that there may not be any issue pending resolution in this matter. Specifically, the Notice of Resolution Session filed with OAH on October 3, 2012, indicated that the matter was resolved at the Resolution Session held on September 27, 2012. Further, a case notes entry on October 15, 2012 indicated that Mother informed OAH staff that she would be requesting a dismissal of the complaint.

Under the reauthorized Individuals with Disabilities Education Improvement Act (IDEA), a hearing must be conducted and a decision rendered within 45 days following a 30-day resolution period, after receipt of Student's due process notice, in the absence of an extension. (See Ed. Code §§ 56502, subd. (f), and 56505, subd. (f)(3).) Given the short time frames applicable to this case, it is critical that parties and their representatives participate in advancing the matter to hearing. Absent receipt of notification from Student withdrawing his request for a hearing or agreeing to dismiss his case, the parties must be prepared for a hearing as currently scheduled, and OAH is obligated to hold a PHC and due process hearing.

If this matter was fully resolved against the District, Student must file a written request with OAH asking that the matter be closed. On the other hand, if the case is not resolved and Student desires a hearing on the merit on all issues, parties must be prepared for a hearing.

At this time, OAH has not received any letter or other communication from Student's Mother indicating that the matter should be closed or dismissed. Also, neither party filed

PHC statements prior to this PHC, as ordered in the OAH scheduling order of September 6, 2012. Thus, it is unclear if the Student intends to prosecute this matter, or if a dismissal would be sought as indicated by Student's Mother.

Therefore, the following Orders are issued:

1. **Order to Show Cause:** Both parties are ordered to appear telephonically on October 29, 2012, at 10:00 a.m. for a telephonic Order to Show Cause (OSC) conference. **OAH will initiate the telephone call.** At the OSC conference, Student must show cause, if any, as to why the above-entitled case should not be dismissed for failure to prosecute it. If Parent fails to appear for the OSC conference, then Student's due process hearing request will be considered abandoned and will be dismissed for failure to prosecute.

If either party wishes to be contacted at a telephone number other than the one listed in the pleadings filed in this case, that party shall provide written notice by facsimile to OAH of the alternate telephone number by close of business on Friday, October 26, 2012.

2. **Order Continuing PHC:** The PHC is continued to October 29, 2012, at 10:00 a.m. If parent shows sufficient cause why the matter should not be dismissed, the continued PHC will occur after the OSC conference on October 29, 2012, at 10:00 a.m.
3. **Order Vacating Due Process Hearing Date:** The current hearing date of October 30, 2012 is vacated. The due process hearing is continued and shall commence on October 31, 2012, at 9:30 AM.
4. **Order Directing Service of Documentary Evidence and Witnesses Lists:** Both parties ordered to serve their respective documentary evidence and list of witnesses on each other by close of business on October 24, 2012.

IT IS SO ORDERED.

Dated: October 23, 2012

/s/

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings